

ORDINANCE REGULATING THE CONSTRUCTION,  
OPERATION, MAINTENANCE, & CLOSURE OF SOLID WASTE  
DISPOSAL FACILITIES AND INCINERATORS IN THE TOWN  
OF MERCER

Whereas, it is the responsibility of the municipality to provide for the health, safety, and welfare of its inhabitants; to protect the environment, water resources, and air quality in Mercer; to prevent unreasonable burdens being placed upon the Town roads and traffic conditions; and to minimize economic burdens on individual tax payers of the Town of Mercer;

Whereas, it is the intent of the Municipality to minimize pollution from any solid waste disposal facility or incinerator constructed, operated, maintained, and closed after the effective date of this Ordinance;

The Town of Mercer hereby ordains that this Ordinance entitled "Ordinance Regulating the Construction, Operation, Maintenance and Closure of Solid Waste Disposal Facilities and Incinerators in the Town of Mercer" shall be enacted as follows:

Section 1. AUTHORITY

This Ordinance is adopted under the provisions of Title 30 M.R.S.A., Sec. 1917 (Home Rule), and the statutes and laws of the State of Maine, including 38 M.R.S.A., Section 1310-U. This Ordinance establishes standards for protection of public health, safety, welfare and environment.

Section 2. DEFINITIONS

Board: The Board of Selectmen of the Town of Mercer.

Planning Board: The full Planning Board of the Town of Mercer, including the three Planning Board members elected from the floor at the annual Town Meeting and the three Selectmen who comprise the other half of the six member Planning Board.

Solid Waste: Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing at room temperature, including by way of example and not by limitation, rubbish, garbage, scrap materials, junk, refuse, landscape refuse, and inert fill material, but shall not include septic tank sludge, industrial sludges, agricultural wastes or any waste treatment plant sludges or fluids or any material that has been "bulked" up with sawdust, sand or any other dry matter to disguise its essentially fluid nature and stop it from flowing freely at room temperature.

Prohibited Waste Materials (not permitted in waste facility or to be burned in an incinerator): Any waste, such as, petrochemical, chemical petroleum, radioactive, infectious, pathogenic, or other industrial, animal or human waste or materials, which may constitute a hazard due to chemical, thermal, pathogenic, infectious, explosive, radioactive, or combustible characteristics. All hazardous, special, toxic, and septage wastes are also prohibited as well as all hospital wastes that have had any potential to have come in contact with bodily fluids. Asbestos, flyash, oily debris, sludge, and lead contaminated soil are also prohibited.

CERTIFIED TO BE A TRUE COPY  
SELECTMEN OF MERCER  
February 25, 1988

*Robert Mealey*  
Robert Mealey

*Ralph True*  
Ralph True

*James Doyle*  
James Doyle

**Disposal Facility or Project:** Any solid waste landfill, incinerator, waste transfer facility or waste transfer station owned, operated or maintained by any person or entity, other than the Town of Mercer, including all land area, structures, locations, equipment, or combination of them and associated therewith, for the disposal of residential and/or commercial solid waste.

**Incinerator:** Any burning facility constructed, planned or operated for the purpose of burning municipal solid waste, special wastes, refuse derived fuel, hospital wastes, septage, hazardous wastes, toxic wastes or any other materials except coal, wood, oil, natural or propane gas for the purpose of waste volume reduction or energy generation. A "Waste to Energy Incinerator" is an example but in no way limits the definition of "Incinerator".

**Disposal:** Disposal is defined in 38 M.R.S.A., Sec. 1303(3), including that discharge, deposit, injection, dumping, spilling, leaking or placing of any special, hazardous, toxic, radioactive, or prohibited hospital wastes as well as sludges of any sort or septage into, on, or over any land or water so that any constituent part thereof may be able to enter the environment or be admitted into the air, or discharged into the water, including surface and ground water, other than as allowed by this Ordinance.

**Septage:** Septage is defined in Title 38 M.R.S.A., Sec. 1303(9), including that waste, refuse, effluent, sludge, or any materials processed thereof or any other materials from cesspools, septage tanks, waste treatment facilities or any similar facilities.

**Hazardous Waste:** Any waste defined by Title 38 M.R.S.A., Sec. 1303(5), as amended and including all wastes labeled "hazardous" by the environmental regulatory agencies of the state from which they originate and any and all wastes and wastes containing components in sufficient quantities to qualify as "hazardous" by Federal EPA definitions.

**Infectious Waste:** Infectious waste shall include those wastes so defined by the solid waste Management Regulations promulgated by the Department of Environmental Protection pursuant to Title 38 M.R.S.A., Sec. 1304 as well as all prohibited hospital wastes.

**Sludge:** Any free-flowing semi-solid or liquid waste generated in a municipal, commercial, or wastewater treatment plant, water supply treatment plant, air pollution control facility, or any other such material having similar characteristics and effect; point source industrial discharges subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat.880), are excluded.

**Special Waste:** Any material produced by or emanating from domestic, commercial, and industrial activities which is not readily compatible with facilities and equipment used in management of municipal solid waste. A material is identified as special waste when it exists in such quantity, such physical or chemical state, or combination of characteristics as to disrupt or impair effective operation of available waste management equipments, or to threaten human health or safety or the physical environment.

Toxic Waste: Any material determined to be EP toxic.

Abutting Land Owner: Owner of a lot or parcel of land which has a common boundry with a parcel of land being proposed as a site for a Solid Waste Disposal Facility or Project, including an owner of land which is across the road from a parcel of land being proposed as such a site.

### SECTION 3. ADMINISTRATION

The Planning Board of the Town of Mercer shall administer this Ordinance. A quorum shall consist of two-thirds of the members of the Planning Board.

All Solid Waste Disposal Facilities and Incinerator projects shall be undertaken within the Town of Mercer only in conformance with this Ordinance.

Approval of a permit to operate any Solid Waste Disposal Facility or Incinerator is dependent on meeting every requirement of this Ordinance and on receiving a minimum of four votes of approval at a regularly scheduled Planning Board Meeting.

Before any construction is begun on a Solid Waste Disposal Facility or Incinerator, including but not limited to grading, ditching, construction of buildings or roads, utility installations and any other work on the project, the owner/applicant shall apply to the Planning Board for approval. The Applicant must receive final approval from the Town of Mercer Planning Board as well as from all State, County, Municipal and Federal Agencies required for said project before construction begins. All plans for construction, financing, operation, fire protection, traffic, closure and other relevant matters must be in total compliance with the terms of this Ordinance.

#### SECTION 4. APPLICATION PROCEDURE.

The following must accompany any application under this Ordinance:

Full financial disclosure of the source, availability and terms of the funds to adequately construct, open, operate, close and clean up any Solid Waste Disposal Facility or Incinerator opened under the terms of this Ordinance as well as adequate funds to fund any pre-mature or emergency closure. Proof of financial ability to pay for the cleanup of any spill, leak, overflow or release into the atmosphere or environment of any or all materials that may be hazardous to the health of the inhabitants of Mercer or proof of ownership of an insurance policy from a reputable company that will fully cover the cost of the above and to locate and supply an alternate water supply for the entire Town.

A \$100,000 application fee. This fee is to be paid to the Planning Board of Mercer and is to be used at their descretion for legal, technical and environmental evaluation of the application and the long range consequences of a proposed facility and for consultation or testimony upon the application. On any facility which is over ten acres in size an extra \$10,000 per acre will accompany the application fee to cover the cost of more extensive investigation of the impact on the environment and the community. Any additional fees which the Planning Board deems necessary to adequately carry out the purposes and intent of the Ordinance shall be reimbursed by Applicant. If the Planning Board does not use the full Application Fee as provided above, the unexpended balance shall be returned to the Applicant.

Proof of notification of all abutting landowners, in writing, of the nature, size and projected lifespan of the proposed project.

A full Environmental Impact Study conducted by a qualified group of professionals in the relevant field and approved by the Planning Board. The study shall include but is in no way limited to; background testing for existing sources and types of pollution already on the site of the proposed of the proposed project, projected impact of the project on fish, game and other wildlife, projected impact of the project on abutting property owners, and it shall establish base-line measurements to compare any future pollution of air, surface and ground water or soil as well as ambient noise level and seagull and other pest and vermin levels as they exist at the time of the study.

Any application under this Ordinance will include, on standard size sheets (24" x 36") a Plan drawn no smaller than 100 feet to the inch. This Plan shall be accompanied by a location map showing the relationship of the proposed project to adjacent properties. The Plan shall also contain:

- a. Name of project; owner(s); copies of deeds or other documents showing ownership; a list of any abutting property owned by Applicant in Mercer or elsewhere; engineer(s); and surveyor(s). In case of corporate ownership, the names and addresses of all corporate officers, directors, and shareholders.
- b. Graphic scale, date, and north point;
- c. Existing zoning, if any;
- d. Ownership and location of abutting landowner's properties;
- e. Type, location, profile and cross section of all existing and/or proposed surface water drainage;
- f. Fencing, landscaping, buffer strips;

- g. Site and design of any leachate collection pond and its spillway;
- h. Entrances and exits;
- i. Location of all existing and proposed utilities (water, gas, electricity, and/or other) on project site or land owned or leased by the project;
- j. Existing or proposed topography at no less than five foot contours;
- k. Location and precise mapping of all bodies of water on the land owned, under contract or leased to the project as well as on the properties of abutting landowners. This shall include all year round and intermittent waterways, lakes, ponds, and aquifers;
- l. Proposed location of test wells;
- m. Location of all wells within one mile of the property boundary of the land owned, under contract or leased by the project. This may be drawn to a different scale but not less than 1,000 feet to the inch;
- n. The final size, location, contours, grade, building and smoke-stack height (if any), contents, and capacity of the project. There will be no expansions permitted under this Ordinance;
- o. Location, size, and purpose of any structures on or related to the proposed project.

As stated above, the "Plan" will contain the completed size of the facility. There will be no mechanism under this ordinance for expansions. Any proposal of additional capacity at a permitted Waste Disposal Facility or Incinerator must be treated as an entirely new project and subject to any and all additional rules in place at the time such application is made in addition to complying with every aspect of this Ordinance. There will be no variances from any requirement or condition imposed under this Ordinance.

In addition to filing a Plan, the applicant(s) must, under this Ordinance, prove to the Planning Board:

- a. That the project will not generate special or hazardous waste through combustion, decay, or combination of materials;
- b. Qualified personnel will supervise and operate the facility;
- c. Provisions have been made to avoid hazardous and excessive slopes and to avoid standing water;
- d. The project will not provide food for or attract or harbor seagulls, mice, rats, other rodents, flying or crawling insect pests, maggots, bears, racoons, or vermin of any sort;
- e. That the proposed project will not have an adverse effect on the environment, local economy, property values in Mercer, the health and safety (physical and psychological) of the citizens of Mercer;
- f. That the proposed project will not create a nuisance;
- g. That the proposed project will not damage the watershed it is in through pollution or deforestation or the changing of drainage patterns;
- h. That the proposed project will not create a burden on Town roads;
- i. That the proposed project will not create a tax increase for the citizens of Mercer;
- j. That the proposed project will not raise the ambient noise level on any abutting properties;
- k. That the proposed project will not have an adverse effect on the fish, game and other wildlife within the Town of Mercer;

- l. That the proposed project will not create smoke or dust that is offensive to Mercer residents or generate discharges into the atmosphere of dioxin, furans, carbon monoxide or other harmful particulates or gases;
- m. That the proposed project will not generate odors that are offensive to Mercer residents;
- n. That the operators of the proposed project are not in violation of any state, municipal or federal laws or regulations regarding environmental matters and furthermore are not convicted felons;
- o. That the proposed project will provide for adequate fire protection and have equipment on hand and manned at all times to combat and safely extinguish a chemical fire, any other combustion on the project site or to stop the incineration at an incinerator immediately at any time;
- p. That the proposed project will comply with the following setbacks and buffer areas:
  - 1) The active area of a project shall be no closer than fifteen hundred (1500) feet to public roads or rights-of-way;
  - 2) The active area of a project shall be no closer than two thousand (2000) feet to the property line of abutting land owners;
  - 3) The area defined by the project property boundary and a line five hundred (500) feet inside the property boundary shall be occupied by trees and shrubs to serve as a sound and sight buffer;
- q. That the proposed project will be able to comply with each and every requirement of this ordinance as well as all relevant municipal, State, and Federal laws and regulations.

Accompanying the Plan and other required application materials will be a fee of not less than 2% of the total projected construction costs of the completed project. This fee will be deposited in an escrow account to be known as the Town of Mercer Environmental Protection Fund, the purpose and functions of which are described in Section 7.

An \$8 per cubic yard tipping fee to be charged on all solid waste entering either an incinerator or a Solid Waste Disposal Facility will also be deposited into the escrow account known as the Town of Mercer Environmental Protection Fund. This tipping fee will increase by \$2 per cubic yard each year of operation of the facility in an attempt to keep pace with the growing size and complexity of the environmental threat to the Town and to keep up with inflation. Additional fees may be added to tipping charges by the Planning Board if deemed needed.

A clear and exacting accounting of the projected volume and delivery rate of solid wastes as well as an exact description of the waste by chemical composition, generic name, E.P. toxicity level, fluid content and weight will be required as part of the application. This accounting will cover the entire lifespan of the Project. Of the total weight of waste to be delivered to a landfill, ninety percent (90%) shall derive from communities or clients within Somerset County. In the case of an incinerator an incineration schedule must also accompany the application. Any variation from the descriptions and schedules provided under this section during the operation of the Project is a violation of this Ordinance.

## SECTION 5. REVIEW PROCEDURES.

Upon receiving the application the Planning Board will have 120 days to decide if the application contains all information relevant to the Ordinance. During this time they consult with any lawyers, engineers, scientists, or others, and they may spend whatever part of the \$100,000 application fee they choose to.

If the Planning Board finds the Application to be incomplete it will request additional information from Applicant. Applicant shall have 30 days to furnish the requested information, or longer with the agreement of the Planning Board. If Applicant fails to complete the Application to the satisfaction of the Planning Board, the Planning Board shall deny the Application.

If the Planning Board finds the application to be complete it must begin considering the application. A number of public hearings not to be less than three must be held during which the contents of the application and its possible merits will be examined. During these hearings the Planning Board will conduct fact finding on each individual item of this Ordinance. The public will be invited to attend and participate. This hearing process will last not less than 60 days and not more than 180 days. If the Planning Board finds that each and every item of this Ordinance has been fulfilled without exception it will approve the application.

The Planning Board may deny an application under this Ordinance if the proposed project in any way threatens the physical or psychological health, safety, security, property values, water resources, air quality, agricultural base or fiscal solvency of the Citizens of Mercer or the Town of Mercer. Failure to comply with any section or item in any section of this Ordinance is clear grounds for refusal of a permit.

## SECTION 6. REMEDIATION TO MERCER.

As part of the remediation to the Town of Mercer for undertaking the risk and possible threat of an environmental catastrophe unseen at the time of the drafting of this Ordinance, any proposed Solid Waste Disposal Facility will accept the solid waste of Mercer residents, including summer residents, at no fee. Additionally, any incinerator that may locate under the terms of this Ordinance will, if the citizens of Mercer so choose, accept the Municipal Solid Waste of Mercer at no fee. This will have no bearing on the continued operation of the Town of Mercer Municipal Landfill.

## SECTION 7. MONITORING.

If a project is approved under this Ordinance the Town of Mercer will establish the paid office of Health Officer to oversee independent testing of all loads that enter the Project and of all emissions from the stacks of any incinerator. The Health Officer will also be charged with conducting independent sampling of all of the test wells established under State of Maine DEP guidelines on a weekly basis. These wells will be tested for the full range of possible pollutants as well as for all heavy metals, organic chemicals, known or suspected carcinogens, bacteria, petrochemicals, radioactivity, pathogens, and any other suspected pollutants that the Health Officer, the Planning Board, the Conservation Commission, the Code Enforcement Officer or the Constable may deem required. All samples of loads and well water will be sent to a independent and unbiased laboratory that is not presently nor has previously been in the employ of the Project, of the owner(s) of the project, or by the officers, directors or shareholders in the case of corporate ownership.

Monthly tests of all residential and business wells within one mile of the working face of the Solid Waste Disposal Facility or the main building of an Incinerator are to be performed by the Health Officer and paid through the Town of Mercer Environmental Protection Fund. These tests will be done through an independent laboratory not presently or previously in the employ of the Project, or of the owner(s) or the officers, directors or shareholders in the case of corporate ownership.

The Health Officer will also conduct sampling and testing of the surface waters on and around the Project, the air and soil on and around the Project and will monitor the Project for any increase in increase in the ambient noise level.

Any pollution found through the monitoring outlined here or discovered in any other manner to have been caused by the project will constitute a threat to the environment of Mercer and are grounds for revocation of the license of the Project and immediate closure and cleanup.

The Health Officer, whose qualifications shall include a college background in science satisfactory to the Planning Board, will be paid a fair salary to be set by the Selectmen of Mercer, but not be less than \$10,000 per year. This salary will not come from the taxpayers of Mercer but instead will be taken from the Town of Mercer Environmental Protection Fund as will the fees for all sampling conducted at the Project.

The Planning Board of Mercer, the Conservation Commission, the Health Officer, the Code Enforcement Officer and the Constable of Mercer will have the right of free access to any and all sections of the Project with no prior notice during operation hours and within one hour before and one hour after said hours of operation. They will also be permitted to conduct any sampling they may choose. They will also be permitted to send deputies in their stead.

The Project will comply with all relevant State and Federal monitoring requirements and sampling requirements in addition to any and all municipal requirements as well as the requirements of this Ordinance.



There will be a container inspection system for all trucks entering and/or leaving Solid Waste Disposal Facility and all trucks entering or leaving an Incinerator. All trucks and containers will be inspected by the Health Officer or his deputies to insure that there are no holes or other avenues for the possible leaking or inadvertent dumping of landfill materials or flyash or other matter entering or leaving a Project. The fee for the required sticker, showing approval of the container, will be paid from the Town of Mercer Environmental Protection Fund and will be no charge to the Project directly or to the hauler.

Failure to obtain a sticker will put a hauler in violation of this Ordinance. Failure to turn back an unstickered vehicle will put the Project in violation of this Ordinance and will be clear grounds for revocation of license. It is the responsibility of the regulated parties to make sure that the containers are inspected.

## SECTION 8. OPERATING PROCEDURES.

Municipal Solid Waste in any Solid Waste Disposal Facility will be covered with not less than six inches of sand or clay before the end of each operating day or more frequently if needed to reduce seagull or vermin threat at the discretion of the Health Officer.

A licensed engineer will be on the site and in charge of operations at the Project during all operating hours.

In order to insure the agricultural and residential nature of the Town of Mercer the Project will operate only during the hours of 8:00 AM to 5:00 PM and will cease all commercial operations on Sunday. However, the Project will accept waste from residents, including summer residents of Mercer, between the hours of 8:00 AM and 5:00 PM on weekends.

An incinerator will not operate during atmospheric inversion or during any other period that would increase exposure to fumes and particulates by citizens of Mercer. The Health Officer will have the authority to designate such high risk days.

No Solid Waste Disposal Facility shall deposit waste below the 100 year high water mark on any land and no stack of solid waste and cover shall exceed 30 feet in height from the existing grade before excavation or grading.

No MSW or other solid waste shall be accepted for burial or incineration that has not been recycled to the maximum extent possible at the point of origin of the waste and at the minimum to the extent that the solid waste of the Town of Mercer has been recycled. The Project shall furnish the required recycling information to the Planning Board prior to accepting any load of waste.

The Planning Board may, from time to time, adopt standards to further regulate, augment or improve the efficiency of the permitted Project or to serve to further protect the citizens and environment of the Town of Mercer.

Access to the disposal site shall be strictly controlled, and all access roads to public and private ways shall be secured when the facility is not open for operation to ensure that unauthorized or unsupervised dumping does not occur.

The operator shall continuously supervise the unloading of refuse to ensure that only permitted wastes are handled at the facility. The operator shall maintain a record of every vehicle which brings waste to the facility, including the following information: 1) name of the driver; 2) name of person, firm or corporation which owns the vehicle; 3) license plate of the vehicle; 4) type/characterization/volume/chemical composition of the waste; 5) source and origin of the waste; 6) satisfaction of the recycling requirement of the waste.

The owner shall establish a closure/post-closure trust fund adequate in terms and amount to assure closing of the site at the end of its useful life in accordance with all local, State and Federal requirements and maintenance of the site subsequent to its closure. The amount of the trust fund shall be based upon a registered Professional Engineer's estimate, approved by the Board or its agent,

of closure costs and post-closure maintenance costs. The owner or operator shall pay into this fund according to the following requirements:

- a. The total estimated closure cost and an endowment sufficient in amount to generate in interest the annual post-closure maintenance cost, plus a 10% contingency, shall be divided by the total estimated volume handled by the facility over its lifetime to determine a per unit of volume closure fee. The owner/operator shall deposit monthly into the trust fund an amount equal to the per unit of volume closure fee multiplied by the volume deposited in the landfill during the previous month. Estimated closure and post-closure maintenance costs and total landfill capacity shall be reassessed annually and adjusted to reflect current conditions and updated environmental impact information as a condition of license renewal.
- b. The trust fund shall be administrated jointly by the Town or an agent approved by the Town and the owner.
- c. The trust fund shall be handled by a trust company which manages no less than \$200 million worth of funds. Funds in the account shall be invested in SEC-approved securities only, using the "prudent man" standard of investment. Real estate investments are prohibited.

Liability insurance shall provide coverage equivalent in amount to the cost of providing a public water supply. This coverage shall meet the following criteria:

1. Coverage must be provided for sudden and accidental occurrences during activelife and for a forty year period following closure.
2. Coverage must be provided for non-sudden and accidental occurrences during the active life and for a hundred year period following closure.

At least 60 days, but no more than 90 days, prior to the date upon which the policy coverage will expire or be cancelled, written notification shall be given to all owners of property abutting the facility and to the chief elected official of the Town, that insurance for the facility will expire or be cancelled, giving date of cancellation or expiration, and requesting that claims against the insured must be filed within 12 months from the date of expiration or cancellation, specifying where and how claims can be filed.

A trust fund shall meet the following criteria:

1. The total cost to provide a public water supply for the susceptible area shall be divided by the total estimated volume handled by the facility over its lifetime to determine a per unit of volume contingency fee. The owner shall deposit monthly into the trust fund the per unit of volume fee multiplied by the total volume received during the previous month.

2. The trust fund shall be administered jointly by the owner and the Town or an agent approved by the Town.
3. The trust shall be handled by a trust company which manages no less than \$200 million worth of funds. Funds in the amount shall be invested in SEC-approved securities only, using the "prudent man" standard of investment. Real estate investments are prohibited. Accumulated interest shall be re-invested in the fund.
4. The cost of installing an alternate water supply shall be re-evaluated annually and the per unit of volume contingency fee adjusted accordingly as a condition of the license renewal.

It shall be understood that an applicant, if the Project is approved by the Planning Board of Mercer, shall furnish liability insurance and proof of financial capability sufficient to hold the Town of Mercer harmless from any liability, for any injuries or damage occasioned by the owner's operation of the Project.

#### SECTION 9. PERMITTING.

Any license to operate a Solid Waste Disposal Facility or Incinerator issued under the terms of this Ordinance shall be for one year only. This license is absolutely non-transferrable and must be renewed each year. The renewal process is identical to the original application process and all fees and requirements are the same. The capacity of the Project, as specified in the initial application, cannot be expanded at any time.

Any license issued under the terms of this Ordinance permits the applicant to accept solely the exact type, composition, quantity and consistency of waste applied for in the permitting process. There will be no substitutions and no augmenting of permitted volume or type of acceptable waste. As with all other items in this Ordinance there will be no variances. If a certain quantity or type of waste should be unavailable at the scheduled time the permitted capacity cannot be filled with alternate waste and the capacity shall be forfeited with no compensation from the Town.

Any license issued under this Ordinance will become invalid and void if a Solid Waste Disposal Facility should accept any waste from outside of the State of Maine that has been classified at a different level or type than the identical waste would be classified within the State of Maine. Fines and revocation of license will be automatic.

#### SECTION 10. EXCEPTIONS.

The Town of Mercer as a Municipal body will be exempt from the terms of this Ordinance in that it will not apply to the Solid Waste Landfill operated by the Municipality of Mercer.

## SECTION 11. ENFORCEMENT.

Violations of this Ordinance by a Project may be cited by any municipal official in the Town of Mercer, including, but not limited to, the Selectmen, the Planning Board, the Code Enforcement Officer, the Health Officer, the Constable, and members of the Conservation Commission. Ruling on violations of this Ordinance will be made by the Planning Board.

Violations of this Ordinance will be cause for immediate revocation of the license of the operator. Any resumption of operation of the Project will require proof that the violation has been corrected and is not ongoing. In addition, a new application under this Ordinance must be submitted, including all requirements and fees, and must be approved as provided in Section 3 of this Ordinance.

In addition to revocation of license any violators will be fined at the following rate: A minimum of \$100 and a maximum of \$2,500 for the first offense and a fine of \$25,000 for all future offenses. Each day of a ongoing offense shall be treated as a separate offense under the terms of this Ordinance.

Violation of any section or any part thereof of this Ordinance will result in the immediate closure and capping of a project subject to a public hearing by the Planning Board. In the event that the violation is upheld and no immediate applications for a new license are received (within 30 days) the escrow account, trust fund and all available bonds and insurance shall be seized by the Town and will not be refunded under any conditions.

The Board of Selectmen, the Planning Board, the Code Enforcement Officer, the Health Officer, the members of the Conservation Commission the Constable and any and all of their deputies are hereby empowered to investigate and seize any evidence relating to a possible violation of this Ordinance by a Project. In the pursuit of an investigation they are permitted free access to any and all parts of the Project and to any pertinent records with no prior notice.

## SECTION 12. EFFECTIVE DATE.

This Ordinance will become effective immediately upon adoption by a majority vote by show of hands at a Town Meeting of the Citizens of Mercer.

## SECTION 13. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional, such holding shall not affect the validity of the remaining portion of this Ordinance.